

1 **FOREST PRACTICES BOARD**

2 **MEETING MINUTES**

3 February 11, 2009

4 Natural Resources Building

5 Olympia, Washington

6  
7  
8 **Members Present:**

9 Peter Goldmark, Chair

10 Brad Avy, Designee for Director, Department of Agriculture

11 Brent Bahrenburg, Designee for Director, Community, Trade and Economic Development

12 Bridget Moran, Designee for Director, Department of Fish and Wildlife

13 Bill Little, Timber Products Union Representative

14 Carolyn Dobbs, General Public Member

15 Dave Somers, Snohomish County Commissioner

16 David Hagiwara, General Public Member

17 David Herrera, General Public Member

18 Doug Stinson, General Public Member/Small Forest Landowner

19 Norm Schaaf, General Public Member

20 Sherry Fox, General Public Member/Independent Logging Contractor

21 Tom Laurie, Designee for Director, Department of Ecology

22  
23 **Staff:**

24 Marc Engel, Acting Forest Practices Assistant Division Manager

25 Gary Graves, Acting Forest Practices Division Manager

26 Patricia Anderson, Rules Coordinator

27 Patti Shramek, Board Support

28 Phil Ferester, Assistant Attorney General

29  
30  
31 **WELCOME AND INTRODUCTIONS**

32 Peter Goldmark called the Forest Practices Board (FPB or Board) meeting to order at 9:00 a.m.

33 Introductions were made by Board, staff and attendees. Patricia Anderson, Department of Natural  
34 Resources (DNR or Department), provided an emergency safety briefing.

35  
36 Goldmark presented a plaque for Ann Wick for her service on the Forest Practices Board from  
37 February 2006 to January 2009.

38  
39 **APPROVAL OF MINUTES**

40 **MOTION:** Sherry Fox moved to approve the November 12, 2008 meeting minutes.

41  
42 **SECONDED:** Tom Laurie

43  
44 **ACTION:** Motion passed unanimously.

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46  
47 **MOTION:** Sherry Fox moved to approve the December 16, 2008 meeting minutes.

48  
49 **SECONDED:** Norm Schaaf

50  
51 **ACTION:** Motion passed unanimously.

## **PUBLIC COMMENT**

Jeffery Thomas, Puyallup Tribe of Indians, gave a briefing on the purpose, nature and status of the work of the Timber, Fish and Wildlife (TFW) Cultural Resources Committee. He recommended that the state Forest Practices Board clarify for all Forests and Fish stakeholders just what the true status of the TFW Cultural Resources Committee actually is. He also recommended that interested members of the Board participate in Forests and Fish Policy's (Policy) sub-committee that was established by Policy to further discuss the uncertainties regarding the Cultural Resources Committee.

Chris Mendoza, Conservation Caucus, commented on compliance monitoring issues, specifically the Compliance Monitoring Program under DNR. He applauded DNR for efforts in compliance monitoring and the crew on the ground. He said, however, he was concerned there are several fatal flaws with the program, one of which is stream typing. He said without proper stream typing it renders the results invalid.

Mendoza also mentioned that over the years it has been suggested that an external review committee be set up, and yet there has been no external review of the program. Another procedural issue is that under WAC 222-12-045 and the Adaptive Management Board Manual, the Compliance, Monitoring, Evaluation and Research (CMER) Committee is supposed to periodically review the program, but there had been no CMER review. He encouraged DNR to do a review as soon as possible, particularly now that the program had gone through a peer review.

Rick Dunning, Washington Farm Forestry Association (WFFA), distributed the WFFA report on a DVD. He explained the DVD was produced under a grant in conjunction with a national certifier of small forest lands in the state, the American Tree Farm System. WFFA offered it to the Board with the hope it can help in the promotion of forestry and tree farming.

Steve Stinson, Family Forest Foundation, gave an update of the Family Forestry Habitat Conversation Plan. He expressed concerns that the rule package for the state of Washington is too restrictive.

Peter Heide, Washington Forest Protection Association (WFPA), said that the WFPAs objective in working with the Board is to support the Forest Practices Habitat Conservation Plan (HCP), a major benefit to the industry, the state of Washington, and DNR. WFPA also supports what's needed to maintain forest land in the state, particularly to keep small forest landowners doing what they do, as they are valuable to both the state and to the industry.

Kara Whitaker, Washington Forests Law Center (WFLC), addressed some of the problems in the forest practice rules and their implementation that have recently contributed to high frequencies and volumes of landslides. She recommended that the watershed analysis loophole should be eliminated, and that the Board should direct DNR to more strictly enforce the unstable slopes rules and better utilize available tools for identifying unstable slopes to protect public resources.

Robert Meier, Rayonier, stated that policies in these hard economic times need to be reconsidered. He said that expanding regulations and regulatory costs push land use away from working forests and the public values they provide. He urged the Board to consider this in their deliberations as they move forward. To maintain Washington's working forests, costs must come down and productivity from the lands must increase. This is a time to work together to minimize economic impacts for the industry, state, and local communities while still providing the environmental protections that have already been implemented. Besides environmental and economic concerns, he asked that the Board also consider the human impacts in rural communities.

1  
2 **STAFF REPORTS**

3 Adaptive Management

4 Darin Cramer, DNR, provided a written report updating the Board on the Adaptive Management  
5 Strategic Plan which was developed by Policy and brought to the Board in November 2008.

6  
7 Sherry Fox asked if Tasks 1 and 2 were completed in December.

8  
9 Cramer replied that Task 1 has been completed to the extent that it can be at this point in time and  
10 that Task 2 has not.

11  
12 Fox also inquired about Task 3.

13  
14 Cramer replied that Task 3 is under way, and that the delivery date is off by about a month but he  
15 expected the product to be available in March.

16  
17 Update on Forest Practices Applications within Spotted Owl Special Emphasis Areas (SOSEA)

18 Gary Graves, DNR, provided a written report identifying proposed timber harvests within the  
19 SOSEAs and an update on the spotted owl typing project.

20  
21 Fox asked Bridget Moran if the Spotted Owl Policy working group is using this information.

22  
23 Moran said they will be, but they haven't gotten to that point yet. She also stated that there would be  
24 questions about whether or not those reports should come to the Board or whether they would be  
25 more useful to the working group.

26  
27 Fox asked if it is useful for the Board to have the SOSEA reports.

28  
29 Moran said she didn't believe so because the Board hasn't delved into the topic. The Board receives  
30 the information but doesn't have to take action. She added that the Washington Department of Fish  
31 and Wildlife (WDFW) is committed to providing the information, and any other, that the working  
32 group needs to do its work.

33  
34 Moran recommended that the SOSEA report be removed as an ongoing staff report. Fox agreed with  
35 the recommendation. The rest of the Board agreed to leave this to the working group.

36  
37 Rule Making Schedule and Work Plan

38 Marc Engel, DNR, provided a written report with an updated rule making schedule and work plan.

39  
40 Compliance Monitoring

41 Leslie Lingley, DNR, provided a written report on the status of compliance monitoring.

42  
43 Tom Laurie inquired about the steering committee that Chris Mendoza had mentioned earlier. He said  
44 he noticed in the report there is a draft charter out and asked how close the group is to being  
45 convened and having a charter.

46  
47 Graves replied that a draft charter was sent out to sister agencies and that they all agree it's a good  
48 starting point. The plan is that the group will be formed in March to refine the charter and move into  
49 some of the other discussions that Mendoza mentioned earlier.

50  
51 Carolyn Dobbs asked about Mendoza's comments about difficulties with proper stream typing and  
52 buffers.

1  
2 Lingley replied that DNR looks at approved FPAs because they've been reviewed by all agencies and  
3 anyone who was interested in that application. It's believed that any stream typing issues should have  
4 been addressed by concerns of FPA reviewers. She said when they've gone out to do field work  
5 they've noticed there are some discrepancies regarding stream typing. In order to decide the  
6 magnitude, they've decided to keep track of instances there are discrepancies, which go from people  
7 buffering streams that were not there (because they were on the map and they didn't want to do  
8 something wrong), to people who had actually mistyped streams. She said the program has a years'  
9 data on this. They didn't want to call landowners out if they had been approved for a stream type, and  
10 then someone else came out during compliance monitoring and said it was not that stream type.

11  
12 Lingley went on to say there are a lot of factors that can change a stream type, and a small stream to a  
13 larger stream, due to blow down during extreme water events. There may now be different physical  
14 parameters than when an FPA was approved.

15  
16 Graves commented that DNR is working with the Department of Ecology (DOE) and has extended a  
17 contract, as part of their compliance monitoring, to explore defining the limits of water typing, and to  
18 see if there is a better way to capture those issues and address that concern through a pilot project.

19  
20 Moran reiterated what Graves said, that there has been a lot of work behind scenes on this between  
21 sister agencies. She said she's been one of the most critical Board members regarding this program,  
22 and it is her understanding that her issues and Mendoza's issues will be addressed. She looks forward  
23 to the steering committee getting going and believes these issues will be in the past.

24  
25 Goldmark asked when the Board could expect a report.

26  
27 Lingley replied that the 2006-07 biennial report should be sent out to the stakeholders next week.  
28 Goldmark requested the report ASAP.

29  
30 Small Forest Landowner Office and Small Forest Landowner Advisory Committee Update

31 Dan Pomerenk, DNR, provided a written report on the Small Forest Landowner Office (SFLO) and  
32 the small forest landowner advisory committee's activities.

33  
34 Norm Schaaf asked if the SFLO has had any feedback from small forest landowner group as to why  
35 fewer than expected long-term applications are being received.

36  
37 Pomerenk replied they haven't heard anything specific except that some people are waiting to see  
38 how the program works and getting feedback from other landowners. Laurie said if something is  
39 programmatically wrong then the issues need to be addressed. Pomerenk said the advisory committee  
40 is looking at that, along with what sort of outreach is needed and other things that possibly can be  
41 done. He said perhaps just not knowing it's available.

42  
43 Laurie replied that it could be lack of knowledge or it could be programmatic. If it's programmatic  
44 perhaps it can be repaired.

45  
46 Fox said she thought it was a programmatic problem or more people would be going after it. Perhaps  
47 it is the complexity of getting through step one and then having to go to step two also. She said she  
48 wasn't sure if the advisory committee could begin to address the complexity of that permit, but until  
49 it becomes a little simpler she doesn't think there will be much participation.

50  
51 Dobbs asked for information about what the Department and the SFLO are doing to get funds freed

1 up for the easement program.

2  
3 Pomerenk replied that funding for the easement program comes from Capital funds from the  
4 Legislature. They are communicating with the Legislature what their backlog is and what it would  
5 take to fix the backlog. Currently there is a bill that attempts to address this.

6  
7 Dobbs asked if they were getting much favorable support from the Legislature.

8  
9 Pomerenk replied yes. He went on to say that the bill is for finding out the extent of the backlog, not  
10 for actually paying for the backlog.

11  
12 Goldmark said the agency made a request to the Governor through the Office of Financial  
13 Management (OFM) to take care of the backlog and try to establish enough funding to carry on. He  
14 said unfortunately there weren't sufficient funds in the Governor's budget to cover the backlog, let  
15 alone what applications can be foreseen in the next biennium. He said he and his staff were working  
16 with the Legislature to try to provide more resources to address this issue, and that he felt it was  
17 important.

18  
19 Moran commented there's been a lot of discussion regarding federal stimulus money. There are many  
20 different avenues through which the money will come – some directly through the Governor's office,  
21 but some through competitive grants and loans for which individual agencies will need to apply. She  
22 encouraged the SFLO to work with DNR so the Forest Riparian Easement Program (FREP) and  
23 Forests and Fish funds are clearly identified for the Natural Resources sub-cabinet. The money will  
24 go to projects ready to go and any backlog. She encouraged DNR to keep that as a high profile  
25 because that will help create private sector jobs in a short amount of time.

26  
27 Dobbs asked if it would help if the Board drafts a letter in support of these programs. Goldmark said  
28 that it would certainly help and asked if the Board would like to direct staff to develop such a letter.  
29 The Board agreed.

30  
31 Laurie asked when an assessment of the fish passage barriers would be available, how they are  
32 holding up after the storms, and whether they can be replaced if needed.

33  
34 Pomerenk replied there are some bridges that have some damage, and the fish passage team has  
35 looked into what kind of repairs are needed and how to fund them. He said he'd talked to a couple of  
36 landowners who said the barriers that have been fixed have performed very well when the storms  
37 came in.

38  
39 Mary McDonald, DNR, said there were two fish passage barriers affected by the December 2007  
40 storm, one of which has been fixed.

#### 41 Upland Wildlife Planning

42 David Whipple, Department of Fish and Wildlife, provided a written update on Upland Wildlife  
43 Planning.

44  
45  
46 Whipple reported there is no more funding for the Landscape Level Wildlife Assessment. The  
47 amount needed to complete the project is estimated to be \$750,000 over the next biennium. DNR  
48 submitted a 2009-11 budget request for half of that amount (\$375,000). The Governor's proposed  
49 budget doesn't contain any funding for the project. WFDW continues to try to pursue other avenues  
50 for funding opportunities through the federal government. He said if they don't receive any more

1 funds the technical group will get as far as they can on the work that they are doing, complete a report  
2 to date, and present that to the Board.

3  
4 Moran commented it is really unfortunate that the group's work will not be able to be finished  
5 because it is cutting edge.

6  
7 Schaaf asked if the Board and the Forest Practices Program is at risk like the situation with water  
8 quality assurances and the lack of some of the research and monitoring we're catching up on now.  
9 Are they running into any issues with wildlife species that would result in the necessity for rule  
10 making outside of this study process?

11  
12 Whipple replied he didn't believe so because the Landscape Level Wildlife Assessment is really  
13 focusing on non-listed species. It is an effort to try to find out what habitats exist now, what can be  
14 expected in the future, and then try to link those needs up if there are any. They need to identify those  
15 gaps and needs and link those up with incentives to landowners to provide that habitat. If there is a  
16 new species listed, that could come into play. The first question would be, what would Forests and  
17 Fish give us for this particular species' habitat? Is there any more habitat or better quality habitat that  
18 is needed beyond what you get from Forests and Fish? This project was meant to answer that  
19 question. If a species is listed we might be up against that particular question, and not really have an  
20 answer. It depends on how far the technical advisory group gets. One thing that will not happen is a  
21 peer review of the Wildlife Habitat Models. It will not have gone through, what some folks would  
22 consider, proper scientific rigor in order to get the answers that everyone could support.

23  
24 Schaaf commented that there are a number of landowner incentives that don't necessarily involve  
25 huge expenditures of money or Capital dollars. Getting to those could take a certain amount of staff  
26 time, and that is a budget issue, but they don't necessarily involve a lot of dollars. Conversations with  
27 stakeholders should continue.

28  
29 Whipple agreed. He said there are a number of planning processes, although only a few usable in  
30 existing rule, that have kind of analogous planning mechanisms at the federal level. If dealing with a  
31 species that may be listed in the future, there are planning mechanisms at the state and federal levels,  
32 but they're not linked. That's one of the things that are important to do - link those processes so that  
33 they can give landowners who want to develop habitat for certain species the ability to do so, without  
34 the regulatory disincentives that are attached.

35  
36 Dobbs commented that wildlife is one of her priorities on the Board. She has been very impressed by  
37 the scientific work that pushes looking at new models and ways to make this work. She said she felt it  
38 would be a shame to lose this because they can't get to the incentive packages. She said she is hoping  
39 that work is going to provide some new directions for the Board. Having incentives that could be  
40 applied more broadly over the landscape would be very important. She said she's sorry to hear that  
41 everything could be mothballed and hoped it doesn't happen.

42  
43 Fox asked if the group has a legislative strategy for funding. Whipple replied there isn't funding in  
44 the Governor's budget so their agency is not going to be able to lobby for that money. He added they  
45 do have a worksheet that they have distributed to the Wildlife Work Group which outlines what the  
46 project is, if someone should choose to talk to legislators about the funding.

#### 47 48 Board Manual Update

49 Marc Engel, DNR, explained that normally when the Board has an agenda item to adopt a rule there  
50 is also a manual prepared for the Board to approve with that new rule. He pointed out there are three  
51 DFC rule proposals on the day's agenda, and said to avoid preparing three board manuals staff

1 decided to wait and prepare the appropriate manual for the Board to consider approving at the May  
2 meeting.

3  
4 The Board supported having the one manual presented at the May meeting.

5  
6 Spotted Owl Policy Working Group

7 Lois Schwennesen, Schwennesen and Associates, provided a written report on the Washington State  
8 Northern Spotted Owl Policy Working Group.

9  
10 Chuck Turley commented that the original structure of the group had three positions on it occupied  
11 by the state: Bridget Moran from WDFW, Vicki Christiansen from DNR and Lenny Young from  
12 DNR. He said due to new assignments, Christiansen and Young were no longer a part of that group,  
13 and said he was trying to fill both those seats. He said he and Moran have talked about whether or not  
14 they want to fill both those seats or, since they are four meetings into it, they should just continue  
15 with the two of them. He said they felt that because the group is to work on a consensus basis, having  
16 one less is not going to negatively impact them. He said they proposed to the group not to fill the  
17 third seat, and the entire group was comfortable with that. He said they wanted to take the  
18 information to the Board because the make-up of the group is specific in the group's charter.

19  
20 Board members indicated they were comfortable with that but asked that a revised charter be  
21 presented at the next Board meeting.

22  
23 Clean Water Act Update

24 Stephen Bernath, Department of Ecology (DOE), provided a letter from Jay Manning, Director of  
25 DOE, to the Board regarding the first draft of its findings for the 2009 Clean Water Act Review of  
26 the Forest Practices Program.

27  
28 Legislative Activity Update

29 Gary Graves, DNR, summarized a list of legislative bills that could affect the Forest Practices  
30 Program.

31  
32 Moran commented that the Spotted Owl Policy Working Group saw HB 1484 regarding the Riparian  
33 Open Space Program, as an avenue to open up an incentive program for threatened and endangered  
34 species habitat. She said the whole working group signed a letter of support for the bill and jointly  
35 testified before both the House and the Senate. They were very well received. She said the legislation  
36 allows for easement program funding to be used for purchasing threatened and endangered species  
37 habitat. She said it also allows for the appropriate valuation of the land so other funding can also be  
38 used to purchase easements. So, if there were an opportunity for Endangered Species Act (ESA)  
39 Section 6 funding, or other large pipelines of federal funding, there would now be an avenue to bring  
40 those funds into the state. She said it was an early win for the spotted owl working group and wanted  
41 to acknowledge it.

42  
43 Fox asked what the Governor's budget has for riparian open space.

44  
45 Lenny Young, DNR, replied it has always been roughly 1 to 1½ million dollars per biennium. He said  
46 he didn't know the exact amounts in the Governor's budget, but he expected it was approximately  
47 that level.

48  
49 Dave Somers asked about HB 1391, Riparian Easement Surveys. He wanted to know how the  
50 easements are being recorded now and who is doing that work.

1 Graves replied that they use what landowners identify on the applications. He explained that a GPS  
2 unit is used to go out and traverse the easement area and then, based on the cruise information, the  
3 location is put in a reference document. In some cases where the economic value is low, land  
4 surveyors have been used to write legal descriptions. But that hasn't occurred very often. He said he  
5 interpreted the change in language in the bill to mean that a land surveyor would be required to  
6 complete every easement.

#### 7 8 **PUBLIC COMMENT ON DFC RULE MAKING**

9 Steve Stinson, Farm Forestry Foundation, said he is opposed to all the current Desired Future  
10 Condition (DFC) options. He provided written testimony of his reasons. He suggested that the Board  
11 convene an outside panel of forest ecologists to review the whole notion of "basal area target" and to  
12 specifically review whether or not the DFC validation dataset is representative of riparian forest  
13 conditions in Western Washington.

14  
15 Rick Dunning, WFFA, commented on the fixed width riparian zone concept. He said in the last ten  
16 years since the Forests and Fish Report, WFFA has worked hard on policy issues to try to make  
17 changes that would do two things. The first is to recognize the complexity and disproportionate  
18 impact that Forests and Fish has had on the small forest landowners of this state. At the November  
19 2008 Board meeting there was discussion about a single tier buffer moving forward, but they have  
20 seen no movement on that. He said recently he advised his board of directors to develop legislation to  
21 legislate such a process, and emphasized they still supported that legislation. He said he hadn't had a  
22 chance to read the fixed width riparian management document yet, but that hopefully the legislation  
23 will allow this state to recognize the disproportionate impact issue.

24  
25 Peter Goldman, WFLC, said the Conservation Caucus has been on record for 3½ years that it wants  
26 the Board to change the basal area target to 325. He questioned whether or not the Board would  
27 follow the science procedures set forth in the federal HCP, and that alternatives 2 and 3 are not  
28 products of that science process. He encouraged the Board adopt the 325 today, but that the caucus  
29 recognizes that alternative 3 deserves a good look. They recommend that the Board refer alternative 3  
30 to the CMER process to make an assessment of whether it actually modifies, in any significant  
31 manner, the riparian protection provided by the Forests and Fish prescriptions. He stressed that the  
32 caucus feels the process is important.

33  
34 In regards to fixed buffers, Goldman said the Conservation Caucus agrees with WFFA that there is a  
35 strong case to be made for a fixed buffer that meets the same goals. He said they repeatedly met with  
36 WFFA and have committed to work with them to try to identify a fixed buffer that meets the goals,  
37 but said the fixed buffer should apply just to the small acre harvests. He said the caucus feels that it  
38 should evolve from a science process, not dictated by the Legislature or just come out of thin air from  
39 this Board process. He said the caucus will work with the other stakeholders on reaching a fixed  
40 buffer for the SFLO on units 20 acres or less.

41  
42 Kevin Godbout, Weyerhaeuser, commented that the U.S. economy and the forest products sector are  
43 in a recession, and because of this suggested that "business as usual" for this Board is not appropriate.  
44 He said starting today the Board has an opportunity to begin a new way of conducting its business. In  
45 regards to the DFC rule making, he asked that the Board consider the Administrative Procedures Act  
46 (APA). He said Weyerhaeuser supports and recommends the adoption of alternative 2. The cost  
47 benefit analysis shows it meets all the environmental requirements and yet performs at the least cost.  
48 He asked that the Board delay action or take time to consider how to best implement these potential  
49 rules, try to minimize the economic impact, and use science that comes from an adaptive  
50 management process.



1 Karl Forsgaard, WFLC, urged the Board to adopt alternative 1 to change the basal area number to  
2 325 for several reasons. First, alternative 1 is the only one that complies with the science-based  
3 adaptive management process and the forest practice statute (RCW 76.09.370), and is based on peer-  
4 reviewed science and the DFC validation study. Second, it is the only one that complies with the  
5 SEPA statute. Third, it is the only one that complies with two other statutes that require economic  
6 analysis, the APA and the Regulatory Fairness Act which requires a small business economic impact  
7 statement. He said it is the only one that was evaluated in the small business economic impact  
8 statement that was posted on the website through the rule making process. He stressed that alternative  
9 1 is the only legal option. He also recommended that materials available on rule making or other  
10 actions that are going to be considered by the Board be posted on the website.  
11

12 Miguel Perez-Gibson, Conservation Caucus, spoke about their concern with the DFC and fixed width  
13 buffer. He said the concern has been, and continues to be, the implementation of the adaptive  
14 management program. He passed out a handout titled, “A Quick Guide to Implementing a Habitat  
15 Conservation Plan for 9.3 Million Acres of Forest Land and 60,000 Miles of Streams in 5 Easy Steps:  
16 Step #1 – Stay on the Trail, Do Not Veer from the Path.

17 Step #2 – Follow the Rules.

18 Step #3 – Read the Rules, What does the Law Say about Changing FP Rules?

19 Step #4 – While on the Trail; Don’t Lose Track of the Destination.

20 Step #5 – Focus – No matter how stakeholders confuse the question, no matter how arguments are  
21 “undercut”, never get “stumped.” If it smells “fishy” it’s usually always a “clearcut” issue.  
22

23 Peter Heide, WFPA, made four points. First, Karl Forsgaard said some of the data DNR used for  
24 alternative number 2 was from the McConnell report. He said he believed the Board knows it was  
25 not. DNR developed an independent database for that information. Second, the 325 number does not  
26 appear anywhere in the scientific paper that was produced by the DFC study. That number is a policy  
27 invented number. Not that it shouldn’t be that number, but that is not a number that came out of the  
28 study. Third, the APA requires the Board to adopt the least burdensome alternative of proposals they  
29 are considering to meet the standard that was set up to adopt a new basal area. He said WFPA  
30 believes that alternative 2 is the least burdensome. Fourth, the Board has the obligation and  
31 opportunity to put policy considerations alongside the science and make the best decisions for the  
32 state of Washington.  
33

34 Jim Peters, Northwest Indian Fisheries Committee (NWIFC), commented that NWIFC tribes would  
35 support looking at the fixed width buffer. He said really hadn’t seen it, but would like to be a part of  
36 the process. He said they would like to help small landowners in the state to keep them doing what  
37 they do best - growing trees to protect the fish. He said he also represents the fisheries industry whose  
38 main goal is to protect fish. The tribal and non-tribal state fisheries have cut back their fisheries since  
39 the early 1980s as stocks started to dwindle and fisheries continue to be closed. He said the Tribes  
40 have asked him to strongly encourage supporting alternative 1 because that proposal went through the  
41 process that everyone agreed on to deal with adaptive management purposes. He said they also  
42 recognize they could look at some of the approaches in alternative 3, but it didn’t go through the  
43 process, so they continue to support alternative 1. They have always been willing to participate in the  
44 process and work with their stakeholders and the state of Washington as co-managers of fish  
45 resources in the state of Washington.  
46

47 Ken Miller, a small family forest landowner, spoke on three regulatory issues for family forest  
48 owners. The first is simplicity, something everyone agrees is needed. The second is parity, something  
49 a little hard to understand as the rules apply to large and small landowners alike. Because of the  
50 complexity of rules it’s often not feasible for small landowners to take full advantage of all the

1 various prescriptions available in the current rules, which is a disproportionate impact. The third is  
2 credit for “low impact”, something which was seemingly promised in RCW and WAC, and yet it is  
3 nearly impossible to even have a dialogue on it. In a nutshell, it seems smaller harvest activities could  
4 be an even lower risk to public resources, creating the possibility for a meaningful “credit” for those  
5 willing or able to have much smaller harvests than allowed in the rules. They just need help figuring  
6 out how to do this.

7  
8 Court Stanley, Port Blakely Tree Farms, commented that DFC fell apart because of trying to combine  
9 science with policy. He said he believed there’s a way to create simplified alternatives that are good  
10 for salmon and landowners, and provide the least cost. He urged the Board to consider alternative 2.

## 11 **FIXED WIDTH, NO ENTRY BUFFER CONCEPT RULE MAKING**

12 Chuck Turley and Lenny Young, DNR, talked about a fixed width rule. Goldmark remarked that as  
13 the Board has moved through the DFC rule making process, it has repeatedly heard from the public  
14 and Board members themselves a desire for a more simple, straight-forward approach to riparian  
15 protection than the current modeling process. To that end, the Board directed staff to file a CR-101  
16 notifying the public of its intent to continue to explore a fixed width, no entry concept. Staff from  
17 DNR, DOE and WDFW have continued to work on such an approach with landowners, and just  
18 within the past few days reached the point where they agree that their discussions can be put into rule  
19 language for the Board’s consideration.

20  
21 A paper was passed out before the meeting titled “Fixed Width Riparian Management Zone for  
22 Western Washington”, dated February 10, 2009. Turley summarized the language of the fixed width  
23 buffer rule. He said it would set in place a one zone, a fixed width, no entry system that a landowner  
24 could use, if they so chose, for 20 acre or smaller harvest. He said it was not currently limited to only  
25 small forest landowners, but is limited by harvest size. It sets a border, by site class, at which they  
26 would simply draw a line and stay out of that area.

27  
28 He went on to say it currently includes a monitoring component, where the first year following the  
29 rule’s implementation date there would be a careful evaluation of where, when, and how this option  
30 is being used. He said there were some concerns about potential for adjacent harvests, or how  
31 frequently this might be used, and a report back to the Board often a year of implementation would be  
32 a way the Board could take a look at that. He recommended that the Board approve the rule language  
33 for a 30- day review by WDFW, counties and tribes. He also asked the Board to allow staff to make  
34 some minor edits to the proposal prior to distribution.

35  
36 Young commented that depending on the disposition of the other aspects of DFC before the Board  
37 today, they need to recognize that they’re working the same section of the rules twice so the Board  
38 would need to make a decision about the short-term matter of the 325 proposals before they could go  
39 past the 30-day review faze with this new proposal.

40  
41 The Commissioner clarified that the Board could still go ahead with the 30-day review of the fixed  
42 width buffer proposal.

43  
44 **MOTION:** Sherry Fox moved that the Forest Practices Board direct staff to provide the draft  
45 rule language concerning a fixed width, no entry buffer as discussed with Board  
46 today to WDFW, the counties and tribes for a 30-day comment period.

47  
48 **SECONDED:** Norm Schaaf

49  
50 Board Discussion:  
51

1 Laurie commented that he was puzzling over this. For one thing, it had happened kind of quickly. He  
2 said that Ecology has supported the fixed width buffer for quite a while. It's great to see some  
3 progress. But he was concerned about a couple things he had just heard. As the Board goes forward  
4 into the WAC process, are they closing the dialog that they want to have on this subject? It seems like  
5 it takes it out of the Forests and Fish caucus discussions that they typically have on these things. He  
6 heard Peter Goldman say he supported this idea and would look forward to participating in these  
7 discussions, as well as Jim Peters representing the tribes. He said he would like to see them involved  
8 in these discussions but it seems like moving ahead with this step would limit these discussions. He  
9 said he was also concerned that we'd be bound to the words that go out in the CR-102. He said he  
10 understood that for rule making there needs to be a certain width, but how much latitude is possible if  
11 the Board goes forward in rule making with these numbers.

12  
13 Turley replied that the whole intent of the 30-day process is to allow that early review, with the  
14 understanding that revisions can be made before the step of the CR-102 is taken.

15  
16 Laurie asked if it would then come back to the Board.

17  
18 Turley replied that staff would come back to the Board, assuming the Board moves this forward, with  
19 the modified rule language and if the comments from the 30-day comment period indicate there  
20 should be a modification. Then staff would ask the Board for the ability to move the modified  
21 proposal forward into a CR-102.

22  
23 Laurie said he likes to make progress, but he wants to make sure they aren't shutting out discussion  
24 and aren't boxing themselves in too soon.

25  
26 Young pointed out that the 30-day review requirement is in the Forest Practices Act. From an  
27 Administrative Procedure Act (APA) perspective they would continue to operate under CR-101.

28  
29 Goldmark asked Young to spell it out for them.

30  
31 Young explained that the CR-101 has put the public on notice of the Board's intent to explore matters  
32 on adjustments to the DFC rules. From an APA perspective, even though they're doing this 30-day  
33 review as required by the Forest Practices Act, they are still operating under the CR-101. The 30-day  
34 review in forest practices rule making provides the opportunity for a less formal discussion prior to  
35 filing CR-102 and the public hearings phase under the APA.

36  
37 David Hagiwara inquired about what would happen if the similar current proposed legislation was  
38 passed. If the Board moved forward on this and the legislation passed, who would have jurisdiction?

39  
40 Fox said the bill hasn't gone to a hearing yet, nor has it gone to a committee, so there are  
41 opportunities to influence the process. Or it could just go away.

42  
43 Schaaf asked for clarification on the inner zone restrictions. He wanted to know if the current inner  
44 and outer zone restrictions would go away if the 20 acre or less harvest under the fixed width option  
45 was utilized.

46  
47 Graves replied yes.

48  
49 Schaaf then asked whether this rule, if the Board approved proceeding with this proposal, would then  
50 be subjected to the same scientific and economic analysis as the current DFC proposals have been.

51  
52 Young replied that it would have to go through both a SEPA and an economic analysis.

1  
2 Bill Little asked if thinning could be applied through a fixed width buffer.  
3  
4 Graves replied that a landowner could choose to do that, but it would be through an alternate process.  
5  
6 Young added that, as written, this is a no entry buffer.  
7  
8 Dave Somers asked if this proposal had been through Policy or CMER.  
9  
10 Young replied it had not. He said that some of the Policy participants have been working on this  
11 together, but it hasn't been taken to the full Policy group.  
12  
13 Goldmark asked Young to describe the derivation of the widths.  
14  
15 Young said they are derived from the inner zone widths specified in the current rule. The group made  
16 a series of adjustments. He asked Graves to explain further.  
17  
18 Graves said they also looked at the history of applications where people had applied DFC, and  
19 generated the average to see if they are relative to past activities that used DFC on the ground. They  
20 also did some weighting of applications. He said the highest percentage of applications are in site  
21 classes II and III. They put a heavier balance on those numbers to say, are these numbers relative to  
22 what the current riparian management zone (RMZ) widths are? And, what is being turned in by those  
23 people doing DFC? They are comparable with those numbers.  
24  
25 Fox added clarification to Somers' comment. She commented that this is for a final harvest buffer. If  
26 you are not at final harvest stage, and you want to use zero stock stand thinning techniques, then you  
27 follow thinning practices there. The no entry buffer is meant to be at your final harvest. She also  
28 offered her opinion that the buffer does not help with the disproportionate impact for small forest  
29 landowners. She wanted to make sure that this buffer would still qualify for the FREP.  
30  
31 Graves said as long as you're functioning under WAC 222-30-021 and are not using a 20 acre  
32 exemption, it would qualify for the FREP program.  
33  
34 Young added that the overstocked stand template for an alternate plan would still be available for a  
35 landowner to pursue.  
36  
37 Dobbs said she strongly supported trying to address the issues that Ken Miller and others put forward  
38 about something that will help with the disproportionate impact. She said she supported the goals of  
39 the fixed width, no entry buffer. However, not having the material to review ahead of time is  
40 unsettling. She said she would like the material ahead of the meeting in order to prepare for any  
41 action to be taken.  
42  
43 Young replied that this is moving fast because they are moving in conjunction with the legislation  
44 that's working across the street.  
45  
46 Dobbs wanted to know if there is sufficient protection through the green-up and adjacency rules to  
47 prevent one little 20 acre harvest after another, and the impact ecologically becoming a larger  
48 harvest.  
49  
50 Graves said green-up requires certain stand characteristics. Is it an adjacent unit greater than 5, 20,  
51 30, or 35 years old? He said it requires a certain percentage of the harvest to meet those  
52 requirements, and if not, harvest would not be allowed on the unit for a period of time. The period of

1 time would be until the trees that were cut on a previous unit are at least four feet high or five years  
2 old. Part of the green-up rule gets at limiting the size of even age harvest, the maximum size of which  
3 is 240 acres. That was one of the reasons they wanted to include a tracking mechanism - to see if  
4 elements like that should be addressed in a different way to keep someone from continually cutting  
5 units right next to each other, and maybe have some spacing.

6  
7 Dobbs also wanted to know why this was expanded from a focus on small forest landowners, to  
8 allowing all landowners to use it.

9  
10 Young replied that with input from the technical expert partners, DOE and WDFW, that the science  
11 shows this will provide protection for RMZs that is equal to or better than what is currently in rule.  
12 With that, we are opening it up to anyone who wants to work on this scale. Where we differentially  
13 treat small and large landowners in the rules is most often because we recognize a disproportionate  
14 economic impact or we're trying to achieve a socioeconomic objective in addition to an  
15 environmental protection objective. In this case we think we can get the protection we need working  
16 at this scale, and we're not bringing this forward as a socioeconomic proposal, but because we think  
17 we've done good derivation from aspects of the current rules, and we can support it. Again, we  
18 would not be advancing the rule making from an APA perspective. We would just like to get that 30-  
19 day review from valued partners under our belt to inform us as we're moving forward, and we would  
20 come back to the Board before taking any step to advance further.

21  
22 Somers asked if comments received from the 30-day review show it needs some major tweaking,  
23 would there be the option of doing it again.

24  
25 Young replied yes, they could totally revise the language and it could go out for a second 30-day  
26 review.

27  
28 Herrera expressed his concern that these regulations might put tribal fisherman out of business. He  
29 said he wanted to make sure the Board sticks with the scientific review process, that the proposed  
30 widths be reviewed, and then feedback is provided to the Board through that process.

31  
32 Young suggested that an option for the Board would be to direct that this proposal get scrutiny by  
33 CMER at the same time it is going through the 30-day review.

34  
35 Moran commented that WDFW has been very supportive of a fixed width buffer. The 30-day review  
36 period would allow them to have scientific confidence.

37  
38 Young said this is very much a draft proposal. It is very well thought out, but it's a draft subject to  
39 review before it advances to the next rule making stage.

40  
41 **AMENDMENT**

42 **TO MOTION:** Dave Somers moved to amend the original motion to include CMER and Forests  
43 and Fish Policy in distribution and opportunity for comment on the rule proposal  
44 within the 30-day review period.

45  
46 **SECONDED:** Sherry Fox

47  
48 **ACTION ON**

49 **AMENDMENT:** Motion passed unanimously.

50  
51 **ACTION:** Motion passed unanimously.

## **DESIRED FUTURE CONDITION RULE MAKING**

Chuck Turley, DNR, highlighted the timeline. He clarified that the number 325 is in the CMER report and is one of the measures of central tendency. He 325 was a staff recommendation. After that, as staff worked with the Board and stakeholders to try to figure out how to bring this process to some closure, they heard a lot about the desire for simpler mechanisms as well as the desire for other elements to potentially address what some felt was over-regulation considering the synergy between the rules. In trying to address those things they ended up with three different proposals for the Board. One just makes the number change. The second started as a proposal that was provided by WFPA. Although it has been modified significantly from that time it's still referred to as the "industry proposal", which is somewhat of a misnomer. The third proposal changes the number, but makes what many felt was a common sense change. It allows credit to be claimed for trees that are being left. One of the reasons some people believe that change is appropriate is if you look at how the research was done, and the numbers collected that went into the validation report, it didn't exclude 20 trees per acre when collecting data in the plots. It included all of the trees that were there. So people went to what they felt was a logical place where the rules should also allow that.

Again, alternatives 2 and 3 did not go specifically to CMER to be evaluated. Where the Board is today is a difficult place. On the one hand is the requirement about how riparian rules can be changed. They have to come from legislation, litigation or clearly through the scientific process. On the other hand, the Board has an obligation to maintain a viable timber industry. What the Board is hearing now is the conflict of those two things.

Turley said that staff recommended the Board proceed with alternative 3.

Young said, recognizing the very broad nature of the proposal for rule making that the Board received from Policy, the rule should stay reasonably well grounded in the scientific work that was carried out, and the Board has an obligation to consider not only scientific but other information. Staff believes alternative 3 is faithful to the scientific work that was carried out. He explained that in the DFC validation study, they went into unmanaged stands in the field and measured what was there to get an idea of what the basal area per acre is in stand age 140. The plots were laid out, the measurements were taken, and then all the trees in those plots were used to eventually derive the metric 325. As part of that study, no trees were excluded from the calculation for any reason. They didn't make an adjustment to factor out what the basal area associated with 20 trees per acre would be, they just measured all the trees and derived the number. So, to the staff, alternative #3 is faithful to the scientific work that was carried out. The Board would be responsive by adjusting the target basal area to 325, but it would not perpetuate something that did not come from this particular piece of scientific work, which is the exclusion of 20 trees per acre. It would allow those trees that are there on site, and are providing ecological function within the RMZ, to be credited toward the basal area credit. The reason they are not recommending alternative 2 is that they think it departs just a little too much from the scientific work that was carried out.

He noted that all three alternatives are within the SEPA threshold and that staff sees a more direct connection of alternative 3 to the work that was carried out than alternative 2 which staff thinks maybe reaches just a little too far.

He said that he would be remiss if he didn't comment on the good intent and energy of everyone who has been trying to work this and get a resolution on it over the last three years.

1 **MOTION:** Dave Somers moved that the Forest Practices Board defer action for 30 to 45 days  
2 and hold a special meeting to consider some of the information received today. He  
3 further moved to direct staff to file a CR-102 to extend the rule making.  
4

5 **SECONDED:** Sherry Fox  
6

7 Board Discussion:  
8

9 Schaaf commented that a very small number of plots actually made it into the DFC study. He asked  
10 how 88 percent of the potential plots were culled out, so that the results came from a very small  
11 number of potential areas.  
12

13 Mendoza replied it's common when conducting a CMER study to have a large pot of potential sites  
14 to choose from. It's common to screen out sites that don't meet the criteria of what the study is  
15 designed to meet. He said this happens in a lot of the studies they do. The way they screened had  
16 mainly to do with management. The majority of the plots they looked at had stumps, were too close  
17 to a road, or some other thing that would prevent them from using it. The idea was to look at  
18 unmanaged riparian zones that reflect a 140 year old forest, which is set in rule.  
19

20 Goldmark asked if the plots were randomly derived.  
21

22 Mendoza replied that they were.  
23

24 Fox asked if they were upland plots or if they were riparian zone plots.  
25

26 Mendoza replied that they were riparian zone plots and that they were stratified by site class, much  
27 like the rule is. The intent of the study was to validate existing basal area targets in the rule which are  
28 separated by site class and stream size. Those are the two variables that determine buffer width,  
29 which is based on basal area.  
30

31 Schaaf asked, within the universe of unmanaged stands that were looked at and measured, how did  
32 the presence or absence of hardwood within those unmanaged stands, of the age class that fit the  
33 criteria, influence their selection in the final inclusion as a measured class.  
34

35 Mendoza replied that one of the criteria of the site selection process was directed at the proportion of  
36 conifer in the stands. It was premised on the rule that large conifers are what people are trying to  
37 grow. A lot of these stands have been taken over by hardwoods and alders, but large conifers are  
38 inevitably one of the goals of the Forests and Fish rules. If a site had 30 percent or more hardwood on  
39 it, then it was screened out of the selection process. Most of the unmanaged stands didn't have a lot  
40 of hardwood. Because of the nature and the age of the stands, a lot of the hardwoods start dropping  
41 out.  
42

43 Dobbs commented there was a peer review that came back with a number of critical remarks. There  
44 were assertions that those were not fully addressed and that the report was somehow modified to  
45 move forward but without directly addressing all the critical remarks. She asked Mendoza to address  
46 the assertions.  
47

48 Mendoza said that the one main remark that was included in the report was that the peer review team  
49 noticed a discrepancy between map site class and field site class. The rule is based on maps and they  
50 decide what you have and the buffer width. During the study they looked at both map site and field  
51 site. They measured the actual trees on site and made a comparison to look at whether the maps

1 accurately reflected the true site conditions. Part of the report said there was a major discrepancy; the  
2 maps were in essence off from the site class.

3  
4 Mendoza said there were arguments about whether they were accurate on the field site call. The peer  
5 reviewers recognized that if the sites were sorted by field site class then a little more work needed to  
6 be done. It was fine for map site class but not field site class. Based on those results, Policy  
7 deliberated and decided that difference between map site versus field site was so minimal that it  
8 wouldn't make much of a difference.

9  
10 Young said there were two or three recommendations that CMER gave to Policy for  
11 followup/cleanup work that could have been done to purge the data set and take things a little bit  
12 further along. Policy thought about it and decided not to pursue those other things but instead to go  
13 ahead and act on the report that had been delivered to them.

14  
15 Stinson questioned the hardwood percentage. He said it seems like most streams have a large  
16 hardwood component. You can pick out a stream from an aerial photo by the large hardwood  
17 component.

18  
19 Mendoza said when you're looking at all streams that cover the landscape, the majority of them are  
20 not large river systems. They're smaller streams, fish and non-fish. This study was related to fish.  
21 When you're in a random sample on all streams in Western Washington of this age class of timber,  
22 chances are you are going to pick up the majority of those stream types. He said he'd observed that  
23 when they age, the majority of the plots looked at didn't have a large hardwood component. In fact,  
24 they ran across very few stands through that random process that had greater than that 30 percent  
25 threshold of hardwoods. The biggest influence on those sites was related to management influence,  
26 road location, and age. He said hardwood was rarely an issue, as he recalled.

27  
28 Moran asked why the 20 trees weren't excluded from the analysis.

29  
30 Mendoza replied that the target in current rules don't exclude those trees either. He heard that it was  
31 put in rules as a disincentive to "pack and whack" and to encourage thinning. He also heard that those  
32 trees were removed as consideration of windthrow. They didn't remove those trees because the study  
33 was designed to validate the existing target in rule, which also doesn't exclude them.

34  
35 Moran asked if counting those 20 trees towards the basal area is consistent with the study. Mendoza  
36 replied that the 325 target is derived from counting all the trees in the core and inner zone on all site  
37 classes, which is consistent with what the study was intended to do at the old target.

38  
39 Fox commented the Board has proven to themselves that they didn't get off on right foot on their first  
40 study with CMER. She said it was her hope that the Board acknowledges that fact, and look at ways  
41 not to repeat that mistake in future rule making.

42  
43 Stinson commented that historical data doesn't support the 30 percent hardwood number. He said  
44 flags were raised with peer review and nothing was done about them. Also, he said he couldn't  
45 believe there isn't a relationship between site class and basal area, and he hoped that someday that  
46 will come out. Higher sites grow more wood.

47  
48 Mendoza replied that the study does show a trend in an increase in basal area on higher sites.  
49 However, the study showed that the trend was not statistically significant. It's a subtle but important  
50 distinction. The reason is that high site ground has fewer bigger trees and the low site ground has a  
51 lot more smaller trees. When you just look at basal area by itself they're close.



1  
2 Hagiwara wanted to know what the definition of “going too far” means in regards to alternative 2,  
3 and what the Board’s liability from the staff perspective.  
4

5 Young replied they are comfortable with all three alternatives in regards to the Board’s obligation to  
6 be grounded in science. But alternative 2, not that it’s not really thought out, goes a little too far in  
7 terms of opening up some other things in the rules not directly related to an adjustment of the basal  
8 area target number; things such as creating the opportunity to harvest timber under certain conditions,  
9 where that opportunity doesn’t currently exist.  
10

11 Dobbs asked what takes precedence, economic viability, the APA or scientific? How does the Board  
12 sort through statutes that appear to be in competition?  
13

14 Phil Ferester replied that the Board needs to comply with all its statutes, and all the statutes are  
15 equally important. He said that a more specific discussion about statutes and risks needs to be held in  
16 non-public meeting.  
17

18 Little commented that he was comfortable with Turley’s statement about the timeline, the priorities  
19 that were set, and the Board trying to get down to where they can make an informed decision on these  
20 proposals. He said if the different stakeholders can’t come up with a common proposal for the Board  
21 he would like to see something that was satisfactory to everyone to some degree. He asked if the  
22 Board had to act on it today.  
23

24 Goldmark replied the answer is probably no.  
25

26 Somers moved that the Board defer the decision for 30 to 45 days. He said he had some questions  
27 about alternative 3. He said he thought it was a good option, and said he would like to hear from  
28 someone in CMER, or someone else who was part of the original group who set that up, if there is a  
29 rationale for that option that they are missing, and get that sorted out. He also commented that there  
30 are new members that have come into the middle of this and that would help them.  
31

32 Schaaf commented that he supported the motion to extend the decision and seek some resolution so  
33 they could have enough support to pass a rule. He said he felt the recommendation from staff lacked  
34 rationale and support as to why proposal 2 is any less valuable than proposal 3, other than “it goes too  
35 far.” He said the explanation for evaluating that from the stand point of a rule making body is  
36 insufficient. There’s been no science provided saying one goes too far. All of the proposals passed  
37 the Determination of Non-significance (DNS) and met the 325 target, and one of them can be  
38 achieved at a lower cost. He said he thought all of those factors need to be in the presentation that  
39 comes back to the Board. The Board needs to know why one proposal will be superior to the others in  
40 those terms.  
41

42 Young replied that the recommendation for alternative 3 over 2 is not based on cost or the DNS. It’s  
43 only based on the difference in the connection they see between what’s proposed and the study that  
44 was carried out. They feel the connection was more solid with alternative 3 than with alternative 2.  
45

46 Schaaf said he didn’t agree with the conclusion but he understood the message.  
47

48 Dobbs inquired about the 20 trees being windthrow insurance and an incentive for thinning. She  
49 wanted to know if there were other reasons that could be brought forward to the Board.  
50

51 Young said they could try to do that, but cautioned when you go back to reconstruct undocumented  
52 rationales for why certain choices were made during Policy negotiations, that is very uncertain

territory. He said they will do their best to do this but there many opinions that are not the same as to the intent of Forests and Fish.

Moran commented that she had asked the same questions. She said while she thought it was valuable to ask whomever was present, she felt the Board could only make its decisions based on what's written down. There was an HCP and a biological opinion written about that HCP, and the incidental take permit is based on what is written, not the conversations that happened elsewhere. She thinks it will be difficult to track down a single common belief about what those 20 trees were for.

**ACTION:** Motion passed. 12 support / 1 abstention (Bill Little)

## **PUBLIC COMMENT ON SPOTTED OWL CONSERVATION ADVISORY GROUP**

No public comment.

## **SPOTTED OWL CONSERVATION ADVISORY GROUP**

Gary Graves, DNR, gave a brief synopsis of the status of the Spotted Owl Conservation Advisory Group. He also identified its members: Paula Swedeen, representing a Washington conservation organization active in the spotted owl arena, Marty Vaughn, representing industry, and Chuck Turley, representing DNR.

**MOTION:** Carolyn Dobbs moved to approve Paula Swedeen, Marty Vaughn and Chuck Turley to serve on the Spotted Owl Conservation Advisory Group until December 31, 2009.

**SECONDED:** Doug Stinson

**ACTION:** Motion passed unanimously.

## **PUBLIC COMMENT ON NORTHERN SPOTTED OWL RULE MAKING**

Brian Murphy commented on the procedures for the 30-day review process of a spotted owl site center. He applauded the Board for setting a review process and appointing a spotted owl advisory group. He asked that in their decision making process, the group consider other relevant and significant information, including the actions of the U.S. Fish and Wildlife Service, rather than a strict reliance on protocol surveys.

## **NORTHERN SPOTTED OWL RULE MAKING**

Gretchen Robinson, DNR, asked for the Board's approval to proceed with two rule making actions concerning the rule on the spotted owl site center decertification process: Continue the permanent rule making process, and ensure that the emergency rule now in effect continues while the permanent rule making proceeds.

**MOTION:** Dave Somers moved that the Forest Practices Board approve the draft rule proposal amending WACs 222-16-010 and 222-16-080. The rule proposal will remove language about the moratorium on northern spotted owl decertification, adds a definition of "spotted owl conservation advisory group", adds language to critical habitats, specifies the group's function, and indicates the advisory group's existence is limited for one year, for review by counties, Department of Fish and Wildlife and tribes pursuant to RCW 76.09.040.

**SECONDED:** Bridget Moran

**ACTION:** Motion passed unanimously.

**MOTION:** Tom Laurie moved that the Forest Practices Board re-adopt the emergency rule that amends WACs 222-16-010 and 222-16-080 and directs staff to file a CR-103 with the Code Reviser by April 28, 2008 to allow time to complete the permanent rule making process.

**SECONDED:** Bridget Moran

**ACTION:** Motion passed unanimously.

## **PUBLIC COMMENT ON POLICY INFORMATION AND ANALYSIS SUPPORT BUDGET REQUEST**

No public comment.

## **POLICY INFORMATION AND ANALYSIS SUPPORT BUDGET REQUEST**

Darin Cramer, DNR, requested that the Board move to transfer \$25,000 from Tier II to Tier I of the CMER budget to support the hiring of an expert facilitator for Forests and Fish Policy.

**MOTION:** Tom Laurie moved that the Forest Practices Board approve moving \$25,000 from Tier II to Tier I budget for Forests and Fish Policy's request for expert facilitation services.

**SECONDED:** Carolyn Dobbs

Board Discussion:

Schaaf asked if there was commitment from those that need to be involved in the facilitation process to engage effectively, openly and honestly in order to get the process to work better.

Cramer replied yes, there is commitment. The difficult part for everyone is committing the time, but yes there is commitment to participate.

Laurie asked if the dispute resolution process set up in the adaptive management process has been utilized.

Cramer replied no, but it had been close a couple of times. He said he thought for the most part that everyone around the table agreed that dispute resolution needs to be triggered when they get to a point where they can't make progress.

**ACTION:** Motion passed unanimously.

## **WATERSHED ANALYSIS UPDATE**

Chuck Turley, DNR, said at the last meeting staff told the Board staff would bring a well defined plan for how the Board might review, or if it so chose, do away with the continued use of watershed analysis. He said he was not able to present that report yet. Staff looked at all of the places in rule that watershed analysis is mentioned, and other places in rule that would also need to be changed, and it is a fairly significant list. He said trying to sort through the correct way to do that with the least unintended consequences is taking more time. He said also Forest Practices Division Operations staff is doing an analysis of exactly how big this problem is by looking at whether prescriptions have been used where they shouldn't have. He said staff want to be sure to rectify that if necessary, and be able

1 to tell the Board how much of the problem doing that would resolve. He said a report could probably  
2 be given at the special meeting.  
3  
4

1 **CONSIDERATION OF ALTERNATE MEETING DATE FOR BOARD MEETINGS**

2  
3 Marc Engel, DNR, gave several options to the Board for changing the dates of their quarterly  
4 meetings.

5  
6 **MOTION:** Bridget Moran moved to develop language that will change WAC 222-08-040 to  
7 state that regular meetings of the Board will be held quarterly, meeting dates will be  
8 scheduled in August of every year and published in the Washington state register  
9 subsequent to their adoption.

10  
11 **SECONDED:** Dave Somers

12  
13 **ACTION:** Motion passed unanimously.

14  
15 **OTHER BUSINESS**

16 The Board decided to hold the annual planning meeting on October 7<sup>th</sup> and 8<sup>th</sup>.

17  
18 **EXECUTIVE SESSION**

19 No executive session.

20  
21 Meeting adjourned at 2:10 p.m.